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| MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196 | | | | |
| EXAMINER | | | | |
| JAIN, RAJ K | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 2616 | | | | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary

Application No.

10/728,052

Applicant(s)

SAYEEDI, SHAHAB M.

Examiner

RAJ K. JAIN

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 27 and 28 are objected to because of the following informalities: The subject claims are duplicate, suggest deleting one of the claims. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-14 and 16-52 are rejected under 35 U.S.C. 102(e) as being anticipated by Kumar et al. (USP 6,757,270 B1).

Regarding claim(s) 1, 15, 33, 42 and 48 Kumar teaches a method for providing forward link packet data service to mobile stations (MSs) in a mobile communication system (Fig.1, abstract)), the method comprising: providing, by a cell (Fig. 6, base station) in the mobile communication system, data transmission services via a forward link (Base station transmits data bursts via forward link to Mobile station; col 15 lines 65 - 67); indicating, by the cell, to an MS that the cell will not provide data transmission service to the MS via the forward link in order to force the MS to select another cell for at least the forward link data transmission service (Fig. 6, col 15 line 39 – col 16 line 20,

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the primary BS terminates data transmission forcing the mobile station to seek another base station accomplished by the pilot signal measurements (PSMM) to continue the data transmissions).

Regarding claim(s) 2, 9, Kumar discloses data transmission services to the MS and wherein indicating that the cell will not provide data transmission service to the MS comprises indicating, by the cell, that the cell will no longer provide data transmission service to the MS via the forward link (col 16 lines 9-13).

Regarding claim(s) 3, Kumar discloses that the cell will not provide data transmission service to the MS via the forward link comprises sending a channel assignment message to the MS that indicates that the cell does not support a forward link (col 6 lines 2—25).

Regarding claim(s) 4, 5, Kumar discloses indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises sending a channel assignment message to the MS that indicates that the cell is not part of an active set of the MS (col 10 lines 53-59; col 15 lines 60-64).

Regarding claim(s) 6, 7, 34, 35, Kumar discloses determining whether the cell is presently available comprises determining, when creating an active set for the MS, whether the cell is presently available to provide data transmission service to the MS via the forward link of the cell (col 11 lines 30-52).

Regarding claim(s) 8, 26, 36, 38, 43, 44, Kumar discloses determining whether the cell is presently available to provide data transmission service to the MS via the forward link of the cell comprises receiving an indication that the cell is presently

unavailable to provide data transmission service to the MS via the forward link of the cell (col 18 lines 60-65).

Regarding claim(s) 10, Kumar discloses providing data transmission services comprises providing data transmission services to the MS by the cell via the forward link (Fig. 1).

Regarding claim(s) 11, 12, 31, 32, 39, 40, 45, 46, 49, and 50, Kumar discloses indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises sending, by the cell, a Universal Handoff Direction message (UHDM) that indicates that the cell does not support a forward link (col 10 lines 6-24).

Regarding claim(s) 13, 27, 28, Kumar discloses rein indicating to the MS that the cell will not provide data transmission service to the MS via the forward link comprises signaling, by the cell, a network initiated cancellation of the MS's present cell selection of the cell indicating a need for the MS to select an alternate cell to provide data transmission service to the MS via a forward link (col 15 – col 16).

Regarding claim(s) 16-18, Kumar discloses the indication that the MS intends to switch comprises receiving the indication by the source BS from the MS via the serving cell and wherein the source BS comprises the serving cell and is a serving BS of the MS (Fig. 6, col 15 lines 39-63; col 16 lines 1-27).

Regarding claim(s) 19-23, Kumar discloses determining whether the target cell is presently available to provide data transmission service to the MS via the forward link of the target cell comprises receiving an indication that the target cell is presently

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unavailable to provide data transmission service to the MS via the forward link of the target cell (Figs. 5 & 6, col 18 lines 60-65).

Regarding claim(s) 24, 41, Kumar discloses subsequent to receiving the indication that the target cell is presently unavailable, receiving an indication that the target cell is available to provide data transmission service to the MS via the forward link of the target cell; sending an indication to the MS that the target cell is available to provide data transmission service to the MS via the forward link of the target cell (col 16 lines 1-24).

Regarding claim(s) 25, Kumar discloses determining whether the target cell is presently available to provide data transmission service to the MS via the forward link of the target cell comprises sending an indication to a target BS that the MS intends to switch to the forward link of the target cell for data transmission service (general specs the procedure for switching BS is via the handoff procedures).

Regarding claim(s) 29, 30, 37, 47, 51 and 52Kumar discloses sending the indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell comprises sending the indication to the MS via a forward packet data control channel (F-PDCCH) of the serving cell (col 2 lines 16-22).

Response to Arguments

Applicant's arguments filed April 7, 2008 have been fully considered but they are not persuasive.

First of with regards to claims 27 and 28, Examiner disagrees, a "serving cell" and a "serving BS" are one and the same, Examiner fails to understand the difference. Applicant is advised to provide further clarification how these terms are different within the context of the claims or cancel one of the claims as suggested.

With respect to claims 1, 15, 33, 42 and 48, Applicant contends " the present application describes embodiments that employ cell selection where a mobile selects a target cell for forward link service, informs the serving cell that it is moving to the new target for forward link service at a certain time, and then autonomously moves to the target cell for forward link service. See e.g., application page 2, second paragraph. The applicant submits that this fundamental difference between cell selection and network-instructed handover is also captured in the claims.

The Examiner respectfully disagrees, none of the subject claims recite features as stated above by applicant and therefore the contention is moot.

Regarding claim(s) 1, Kumar does disclose "that the cell will not provide data transmission service to the MS via the forward link in order to force the MS to select another cell for at least the forward link data transmission service." See Fig. 6, col 15 line 39 – col 16 line 20, the primary BS terminates data transmission forcing the mobile station to seek another base station accomplished by the pilot signal measurements (PSMM) to continue the data transmissions via forward link.

Regarding claim(s) 15, Kumar discloses "receiving an indication that the MS intends to switch from a forward link of a serving cell to a forward link of a target cell for data transmission service..., sending an indication to the MS that the target cell is presently unavailable to provide data transmission service to the MS via the forward link of the target cell." See col 15 lines 17-32, the primary BS receives a pilot signal strength measurement of from the MS indicating that MS is out of signal range and moving into a neighboring cell site (see Figs. 5A and 5B) and therefore receiving service via a target

cell. The target cell will signal the MS that it can not provide data service based on its cell conditions at time of request by the MS thus this feature is inherent within the invention for proper handoff requests as appropriate.

Claims 33, 42 and 48 recites features which are similar to claim 15 and therefore Examiner asserts that the reasoning for rejection of claims 33, 42 and 48 is same as for claim 15 and thus rejection to claims 33, 42 and 48 is sustained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **RAJ K. JAIN** whose telephone number is (571)272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Raj K. Jain/

Primary Examiner, Art Unit 2616

July 14, 2008